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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
SALVATORE, LYNDA	
ART UNIT	**PAPER NUMBER**
1771	

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/797,031	BRAEKEVELT, GEERT	
	Examiner	Art Unit	
	Lynda M. Salvatore	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-50* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30,32-36,38-43 and 45-49* is/are rejected.

7)☒ Claim(s) *31,37,44 and 50* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *3/11/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ormum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-25, 37 and 38 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,787,491. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter sought is fully encompassed by the claimed subject matter of US 6,797,491.

Claim Rejections - 35 USC § 102/103

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 15-19,21-24 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Pappas et al., US 5,071,699.

The patent issued to Pappas et al., teaches an anti-static woven fabric comprising polypropylene flat yarns having a thickness ranging from .5 to 2 mils and a width ranging from 50 to 250 mils (Abstract and Column 3, 10-15). With regard to the claimed thickness and width ranges set forth in claims 3 and 4, 2 mils is equivalent to 50 microns and 50 mils is equivalent to 1.27mm, thus the ranges taught by Pappas et al., meets these limitations. With regard to the rectangular cross section recited in claim 2, a flat yarn or tape would inherently meet the limitation of an essentially rectangular cross-section. The polypropylene flat yarns are interwoven such that they cross over in the warp and weft directions (Column 3, 30-33). In addition to the polypropylene flat yarns, the woven fabric comprises a plurality of conductive fibers which may be interwoven with the warp flat yarns, with the weft flat yarns or in both the warp and weft directions (Column 3, 40-47). Alternatively, Pappas et al., teaches that the conductive yarns may also be superimposed over the woven polypropylene fabric and coated with a thermoplastic material (Column 3, 65-69). Additionally, the coating may be applied to one or both surfaces of the woven fabric (Column 4, 47-50). Suitable conductive fibers include stainless steel and copper (Column 4, 5-10).

With regard to the claimed inweaving factor of 1, although Pappas et al., does not explicitly teach the claimed inwaeving factor, it is the position of the Examiner that said inweaving factor is inherent to the invention Pappas et al. Support for said presumption is based on the fact that since the woven fabric of Pappas et al., is an anti-static fabric it would be obvious that the metal elements would not be bent. For example, bent metal elements would cause undesirable points of discharge. Having such points would contradict the teachings of Pappas et al, which teaches evenly distributing the static electrical charge build up on the surface of the fabric. Pappas et al., also teaches a general weave using conventional equipment evidencing that the metal elements must not be crimped or bent as they are interwoven in the fabric. Also, if the metal elements did not inherently have the claimed inweaving factor of 1, special manufacturing equipment would need to be employed to produce a woven fabric wherein the metal elements are crimped or bent as they are interwoven such that they would extend beyond the length of the fabric. Pappas et al., discloses no such equipment or technique. Additionally, figure 2 illustrates the metal elements in interwoven in a non-bent flat fashion.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 26-30, 32-36, 38-43 and 45-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pappas et al., US 5,071,699 for reasons set forth in section 3 above.

The patent issued to Pappas et al., does not teach the claimed separation distance as set forth in claims 26 and 38 or the ratio of metal elements to polymer elements as set forth in claim 39, however, it is the position of the Examiner that it would be obvious to optimize the spacing of metal elements and the ratio of metal elements to polymer elements as a function of desirable antistatic properties. The spacing of metal elements and ratio of metal elements to polymer elements would impact the conductivity of the fabric. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine sill in the art. *In re Aller*, 105 USPQ 233

With regard to the claimed inweaving factor of 1, although Pappas et al., does not explicitly teach the claimed inweaving factor, it is the position of the Examiner that said inweaving factor is inherent to the invention Pappas et al. Support for said presumption is based on the fact that since the woven fabric of Pappas et al., is an anti-static fabric it would be obvious that the metal elements would not be bent. For example, bent metal elements would cause undesirable points of discharge. Having such points would contradict the teachings of Pappas et al, which teaches evenly distributing the static electrical charge build up on the surface of the fabric. Pappas et al., also teaches a general weave using conventional equipment evidencing that the metal elements must not be crimped or bent as they are interwoven in the fabric. Also, if the metal elements did not inherently have the claimed inweaving factor of 1, special manufacturing equipment would need to be employed to produce a woven fabric wherein the metal elements are crimped or bent as they are interwoven such that they would extend beyond the length of the fabric. Pappas et al., discloses no such equipment or technique. Additionally, figure 2 illustrates the metal elements in interwoven in a non-bent flat fashion.

Allowable Subject Matter

6. Claims 31,37,44 and 50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Specifically, the prior art fails to teach arranging all of the polymer tapes in the weft direction and currently no motivation exists to combine references to form an obvious type rejection. With regard to claims 37 and 50, Pappas et al., fails to teach connecting the formed woven fabric comprising flat polymer tapes and conductive metal fibers to a hose to form a reinforced hose or tube. Presently, there is no motivation found in the prior art to suggest that the conductive fabric can be joined to a hose to form a reinforced hose or tube.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M. Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 1, 2006
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